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ABSTRACT

This paper summarizes the history of North America, especially of the United States, from the earliest explorations and settlements through the present. Emphasis is placed on the Europeans' effect on American Indian life and the inadequate development of Indian education. Comparisons are made between the various colonizers' Indian policies before the revolution, such as: 1) introduction of the treaty system by the Spanish; 2) emphasis on fur trade and conversion to Christianity by the French; and, 3) racial segregation by the English. Finally, United States policies, as well as unofficial practices, are surveyed since the time of the Continental Congress. Various legislation and commission reports are cited and discussed, culminated by a discussion of the 1969 report of Sen. Ralph Yarborough's Committee on Labor and Public Welfare. Recommending 60 changes in Indian policies and procedures, the committee lays the blame for the Indian's life of poverty and despair on America's consistent failure to provide him with an effective education. (DJB)

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CHAPTER II

GENERAL HISTORICAL SURVEY OF FEDERAL INDIAN POLICIES

EUROPEAN INFLUENCES ON AMERICAN POLICY

To understand the forces at work in Europe promoting the rise of expansionism, one should review the economic, religious, political, and social forces which were prevalent during the fifteenth and sixteenth centuries, since the social institutions of Europe were transplanted on the American soil.

Throughout Europe during the middle ages, the economic growth remained static, the Church dominating all areas of life. Methods of agriculture and manufacture changed so imperceptibly that there was little or no increase in their productive capacity. However, during the fifteenth and sixteenth centuries a new era dominated by mercantilism, a philosophy of national power, made its appearance. With the rise of colonialism came the rise of a money economy which stimulated the growth of economic activity and led to the establishment of economic systems. The ultimate aim of foreigh policy was to pursue whatever tactics would maximize the inflow of gold while minimizing its outflow from the nation's coffers. Two methods were used to induce a gold inflow: one was by some form of theft which resulted in policies of imperialism as seen by the early Spanish policies in the new world and the early English piracy against the Spanish; the other was through foreign trade, resulting in colonialism

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and eventually with the problems between England and her colonies who were later to form the United States.[1]

The Protestant Reformation promoted the rise of European nationalism through the formation of nation states, forcing the Catholic counter-Reformation. Scholasticism was feeling the influence of Islamic thought and Greek learning. Humanism, the philosophy which undergirded the Renaissance, had begun to make inroads since Dante laid the foundation in the early fourteenth century. The Southern Renaissance reached northern Europe through humanism and the Protestant Reformation, particularly in the Netherlands, France, Germany, and England from 1430 to 1660.[2] In January of 1492, Spain had completed its drive to expel the Moors. The following October, Columbus arrived in the Bahamas in his search for a new route to Asia.

The religious developments of the sixteenth century affected the colonization of America in several ways:

1) Minority groups opposing the state religion--such as the Puritans in England and the Mennonites and Moravians in Germany--looked to the New World as a place where they might worship God according to their lights. Thus the number of willing colonists was larger than it might have been.

2) Protestantism encouraged business enterprise by emphasizing the virtues of thrift and hard work, and permitting loans at interest, which in Catholic doctrine was usury, a sin. Overseas trading ventures often required loans and in many cases led to the founding of colonies. Colonization, from the point of view of many colonial promoters, was big business, and such business thrived as never before in a Protestant atmosphere.

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[1]Charles L. Cole. The Economic Fabric of Society. New York: Harcourt, Brace and World, Inc., 1969, pp 26-36.

[2]Mehdi Nakosteen. The History and Philosophy of Education. New York: The Ronald Press Company, 1965, pp 227-229.

> 3) The rise of national religions, in which the church was subordinate to the national sovereign, strengthened the nation-states. And the interests of the state, as well as the lure of private profit, provided a motive for the foundation of colonies.
>
> 4) Besides personal and national aggrandizement, the spread of religion was an object of colonization. The religious motive was sharpened by the contest between the forces of the Protestant Reformation and those of the Counter Reformation. The contest was extended from the Old World to the New. Catholics sought to keep America Catholic and Protestants tried to frustrate Rome and win America, or at least a part of it, for their own particular faith.[1]

Prior to the 17th century, the medieval political pattern consisted of two powers, the State and the Church; the Church ruled by divine right controlling the powers of the State. Until the thirteenth century the Church had controlled all aspects of individual and social life--economic, political, religious, and intellectual--but the Church gradually lost its supremacy over the State at which time nationalism began to challenge this ecclesiastical authority. The authoritarianism and dogmatism of the Church was being replaced by the absolutism and autocracy of the monarchs. [2]

According to Forbes:

> Given the anarchy of European affairs and the constant desire of Europeans to conquer and mistreat each other, it did not really make any appreciable difference whether Americans were as 'mannerly and civil as any of Europe' or not. The aggressive tendencies of the age made conquest a normal feature of human existence, and the Americas, made up of small, loosely organized, democratic or semi-democratic states, were ripe for the picking--or so it seemed. Thus commenced the long struggle between Redman and White, which was to change Europe as well as America.[3]

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[1]Harry T. Williams, Richard N. Current, and Frank Freidel. A History of the United States to 1877, 3rd edition. New York: Alfred A Knopf, 1969, p 18.

[2]Nakosteen, Op. Cit., p 252.

[3]Jack D. Forbes, Editor. The Indian in America's Past. Englewood Cliffs, N. J.: Prentice-Hall, 1964, p. 12.

Spanish policy

Two sides to the Spanish picture exist in the settlement of the Americas. On the one hand:

> The Spaniards acquired more new territory than Rome conquered in five centuries. Genghis Khan swept over a greater area, but left only destruction in his wake; the Spaniards organized and administered all that they conquered, brought in the arts and letters of Europe, and converted millions to their faith.[1]

On the other hand, there was:

> the inordinate greed for gold and the revolting cruelty to which the Indians were often subjected; yet, too, there was the faith of the Spaniards and the chivalrous courtesy that their descendants have inherited, and the arts that followed fast on the heels of conquest.[2]

The Spanish conquest of the Americas began over a hundred years before that of the French and English. A warrior class had developed during the civil wars in Spain in which militarily experienced and well armed Conquistadores were backed by an aggressive and powerful state. "Religious zeal and a great desire for wealth provided the psychological incentives necessary for the transferrence of Spanish authority."[3]

The Spaniards believed that the Indians were to be brought under the authority of God and king by peaceful means if possible, but by the sword if necessary and that they had no right to self-determination or self-government.[4] The Indian population responded to this policy during this early

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[1]Samuel Eliot Morison and Henry Steele Commager. The Growth of the American Republic, Volume 1. New York: Oxford University Press, 1962, p.33.

[2]Ibid, p. 34.

[3]Jack D. Forbes. The Indian in America's past. Englewood Cliffs, New Jersey: Prentice-Hall, 1964, pp. 9-10.

[4]Ibid, p. 10.

period by a decrease of population brought about by disease, suicide rather than slavery, and mothers' refusal to bear children. As the West Indies were being depopulated, the Spaniards brought in slaves from other Indian Islands as well as from Africa. In the meantime, various expeditions reached Florida, Panama, Yucatan, Mexico, and what is now the Southwestern part of the United States.[1]

The Spanish priests, who came from an authoritarian, European agrarian society, viewed the Indian as uncivilized and animalistic. They were opposed to the democratic tendencies of the Indian groups as seen in their inclination to disobey their tribal leaders.[2] As a consequence, the native Indians in many areas were subjugated in various ways ranging from extermination to minor slavery. The missions of California were absolutely totalitarian institutions in which friars and soldiers regulated almost every phase of native life. They were royal institutions designed to control native populations and transform them into Catholic subjects of the Crown. "The salvation of souls was important to the more devout of the missionaries: however, the government was most interested in producing docile taxpayers and laborers--and the government established most of the missions."[3]

A dualism and ambivalence underlay the colonizing as well as the dependency-ruling enterprises of the Spanish, French and English. This

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[1]Ibid, p. 10.

[2]Ibid, p. 16.

[3]Ibid, pp. 74-75.

dualism is still prevalent today. Collier has the following explanation for this ambivalence:

> At one extreme, uninhibited exploitation, ravenous and unconcealed, annihilating the labor supply in exchange for quick returns. At the other extreme, ethical and humanitarian judgment and purpose, battling and laboring through lifetimes, renewed through centuries. Within the first extreme, struggle (within the Spanish Crown itself) between the short-range interest which was willing to comsume whole populations in order to win quick gold, and the long range interest which for permanent revenue took the well-being of subject peoples into account. Within the second extreme, there was the drive toward root-and-branch reforms and greatly imagined humanitarian programs, warring against the entire system of exploitation, secular and ecclesiastical, and efforts at reform (idealistically motivated) which sought to work within the exploitative system.

The total result was a failure of both, the depopulation and social degradation of the native masses, the retardation and distortion of the development of the conquerors, and eventually the internal decay of Spain herself.[1]

At times the secular and the ecclesiastical interests were united in their ambitions, and at other times they clashed. The same conflicts of motives were found within the monastic orders as those existing within the Crown. Religion continued as a motive for conquest throughout the whole movement, leading to an unprecedented assault against native religions and attrition of the ecological complex which had been vital to the native tribal societies.[2]

The autocratic Spanish rule reserved absolute power for the rulers but which denied legislative and administrative experience for the Indians. The provinces of the Church and the Crown were clearly defined, with the

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[1]John Collier. The Indians of the Americas. New York: W. W. Norton and Company, Inc., 1947, pp.116-118.

[2]Ibid, p. 118

former striving to convert the Indian to Christianity, and the latter seeking to produce workers for the newly developing economy. Collier says that:

> The theory was this: by conversion you saved their immortal souls. By training them to work at their daily tasks (under your dispensation) you taught them how to live under the European way of life.[1]

Trade (imperialism), rather than seizure and development of land (colonization), was the original goal of the Spanish. After a futile attempt to develop the American Indian as a potential labor source for the support of a precious metal economy, the Spaniards turned to the importation of Negro slaves. After the sixteenth century, the Spanish possessions in the New World took on the characteristics of colonies rather than imperialistic extractive societies? This did a great deal for the Spanish economy during the next century; the commodities produced by the Indians had a more lasting quality, with corn, potatoes, tobacco and other products such as rubber, chocolate and tomatoes contributing significantly to the ability of the European population to grow.

If cultures can be judged in relation to the mores of their times, the Spaniards were no more cruel or predatory than other European nations. The Indians were probably as well off as the serfs of continental Europe or some of the peasants of the British Isles. As an agrarian, subsistence economy began to develop in the new world, some of the more valuable attributes of European civilization replaced the conqueror's avaricious desires for gold and silver. The Church became more of a dominant influence in the

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[1] Ibid, p. 123.

[2] Norman A. Graebner, GilbertC. Fite, and Philip L. White. A History of the American People. New York: McGraw Hill Book Company, 1970, pp. 16-17.

social and economic life of the natives:

> They transferred their language and learning, their tools and mechanical arts from the homeland to the colonies. They transplanted grains and fruits and vegetables, including wheat, oranges, lemons, grapes, bananas, olives, and sugar cane. They introduced domestic animals such as cows, pigs, mules, and especially horses, which soon multiplied and ran wild even beyond the colonial frontiers, becoming accessible to the Indians far north on the Great Plains and revolutionizing their way of life. And though the Spaniards brought the sword, they also brought the cross. Priests or friars accompanied every colonizing venture, making each settlement a Christian community and carrying the gospel bravely to the heathen.[1]

Education among the Spanish.

Education followed two main streams. At first, the Spanish were concerned with the passage of their own culture between the generations of their own social systems. Later, education was involved in the process of introducing the Spanish culture to the Indians who obtained a body of knowledge in the rudiments of mining and farming utilizing European technology. They also were introduced to the European spiritual symbols and beliefs, which were important educational factors having future implications.

French Policy

The two main interests in New France were the conversion of the Indians to Christianity and the "conversion of beaver" into furs which could be sold in Europe.[2] If gold was the main lure for Spanish exploration, the economic importance of the fur trade largely determined the character of the French empire in America, organized so as to allow the Indians to provide the pelts. Since fur trading did not conflict with the Indian way of life, the French rule could be described as benevolent and "laissez faire" with

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[1]Harry T. Williams, Richard N. Current, and Frank Freidel. A History of the United States to 1877, 3rd edition. New York: Alfred A. Knopf, 1969, pp. 14-15.

[2]Morrison, Op. Cit., p.72

a close, personal contact between the two groups. Agriculture was prevalent only on a narrow strip of land along the banks of the Saint Lawrence River where the habitants tilled the soil as virtual serfs of the feudal landholders, creating a reproduction of the rural life of old France.[1]

The French claimed as New France, all of North America from the Alleghenies to the Rockies, and from Mexico and Florida to the North Pole, except for the area claimed by the English on the borders of Hudson Bay. Into this area, they restricted immigration to all but Roman Catholics of orthodox beliefs, with the result that this vast domain was peopled by approximately eighty thousand French colonists.[2] Parkman comments that:

> ....a rigid scion of the old European tree was set to grow in the wilderness. The military Governor, holding his miniature Court on the rock of Quebec; the feudal proprietors, whose domains lined the shores of the St. Lawrence; the peasant; the roving bushranger; the half-tamed savage, with crucifix and scalping-knife; priests; friars; nuns; and soldiers,--mingled to form a society the most picturesque on the continent. What distinguished it from the France that produced it was a total absence of revolt against the laws of its being,--an absolute conservatism, an unquestioning acceptance of Church and King. The Canadian, ignorant of everything but what the priest saw fit to teach him, had never heard of Voltaire; and if he had known him, would have thought him a devil. He had, it is true, a spirit of insubordination born of the freedom of the forest; but if his instincts rebelled, his mind and soul were passively submissive. The unchecked control of a hierarchy robbed him of the independence of intellect and character, without which, under the conditions of modern life, a people must resign itself to a position of inferiority. Yet Canada had a vigor of her own. It was not in spiritual deference only that she differed from the country of her birth. Whatever she had caught of its corruptions, she had caught nothing of its effeminacy. The mass of her people lived in a rude poverty,--not abject, like peasant of old France, nor ground down by the tax-gatherer; while those of the higher ranks--all more or less engaged in pursuits of war or adventure, and inured to rough journeyings and forest exposures--were rugged as their climate. Even the French regular troops, sent out to defend the colony, caught its hardy spirit, and set an example of stubborn fighting which their comrades at home did not always emulate.[3]

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[1]Dumas Malone and Basil Rauch. Empire for Liberty, vol. 1, New York: Appleton-Century-Crofts, Inc., 1960, pp. 26-27.

[2]Francis Parkman. Montcalm and Wolfe. New York: Collier Books, 1962 (set from the 1884 edition), p. 38.

[3]Ibid, pp. 39-40.

Historical accident can account for the fact that the territory now called the United States was not claimed by just conquering nations, but by competing European ethnic groups who exploited the Indian tribes to further their imperialistic aims. Indirect rule, with a high legal status for the native societies, who were elevated sufficiently to allow them to be represented as distinct, independent, political communities with the power to demand and make treaties, became the calculated policy of the trade-competing and warring imperialisms, particularly those of England and France. This policy became standardized and codified in treaties and statutes from the beginning and later these theoretical premises were basic elements of the Indian policy of the United States.[1]

The French possessions in America were difficult to retain, largely because of the small number of French colonists who were allowed to immigrate and the catastrophic impact of continuous European wars that had their counterpart in the New World. England, Spain, and eventually the United States were the chief benefactors. The French colonial empire in America was dissipated, with the English acquiring the Canadian portions, the United States purchasing the area between the Mississippi and the Rocky Mountains, and the Spanish extending into the southern portions. Eventually, the United States was to gain control of a large portion of the Spanish territories, leaving England and the United States as the two major powers in the continent of North America.

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[1]Collier, Op. Cit., pp. 174-175.

English Policy

Prior to the sixteenth century, English imperialistic activities consisted primarily of exploration and plunder, but the latter part of the century her interests broadened to include colonization.[1] The English were largely responsible for the transplantation of the age old European traditions in the New World, particularly within what has become the United States and Canada. According to Williams:

> In colonizing America, Englishmen brought to this continent not only their material things like tools and their manual skills, their preferences in clothing, their styles in clothing, their styles of housing, and their tastes in food. They brought also their familiar symbols of calculation and communication. They brought their weights and measures--foot, yard, rod, mile, acre, ounce, pound, ton, pint, quart, gallon and so on--and also their money system of pounds, shillings, and pence. Above all, they brought their language.[2]

With the English language came a body of thought and feeling, the King James version of the Bible, their nature of religious expression, their type of literary classics, their pattern of education, and the wisdom of their people. From these they derived their conceptions of the proper relationship of man to man in society. They were a pragmatic people, lacking a capability for long term planning and consistent action, but amenable to change through compromise. The English were more self-reliant economically than their European neighbors, but less dependent and inhibited by their government. An important legacy was the English law which formed the basis of American common law with its rule of precedents. This form of constitutional government was one of laws, not men, with the courts exerting power over the "Divine Right." Although representative government became established, within bounds, it was considered proper to

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[1]Graebner, Op. Cit., pp. 67-68.

[2]Williams, Op. Cit., p. 20.

resist authority when it was abused, in spite of a harsh criminal code. Certain conditions of the New World, such as the mixture of heterogeneous ethnic groups, new challenges and opportunities, varying geographical and climatic conditions, and demographic variations, tempered these heritages, resulting in only a partial diffusion of the Old World society.[1]

POLICIES OF THE COLONIAL PERIOD

In theory, the Crown was the owner and sovereign of the lands settled by Englishmen, and further, it granted and regranted territory to companies or proprietors by imposing varying conditions; but, it failed to set indisputable boundaries.[2] The colonizers were supported by wealthy individuals, stock companies, or unincorporated groups, who received grants to establish colonies in the New World. Jamestown, the first permanent colony, sought quick profits by searching for gold and other exportable products, but by 1609, their goals shifted and they began to support an agricultural and trading community. With the granting of the third charter in 1612, Virginia gained extensive powers for its tobacco dominated agricultural economy.[3]

The motives for settlement of the New England area stemmed primarily from religious discontent rather than economic gain. The Mayflower Compact bound its members to a civil rather than a religious society which was to be controlled by "just and equal Laws...for the general Good of the Colony," although some Puritan governors ruled both Church and State. Massachusetts soon became one of the most desirable havens for disgruntled Puritans from

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[1] Williams. Op. Cit., pp. 20-23.

[2] Ibid, p. 30.

[3] Ibid, pp. 31-33.

England;[1] Pennsylvania attracted large numbers of Quakers; New York served as a center for Dutch colonization; and Georgia provided a new start in life for imprisoned English debtors as well as a military barrier against the Spaniards to the south.[2]

The early colonies were settled by heterogeneous groups of all religious faiths from the British Empire and the European Continent. They came to establish a permanent home for themselves rather than to seek quick financial gain with which to retire to their homeland. As a result, with the arrival of the first settlers, the fundamental struggle was concerned with possession of the land. The colonists frequently needed additional soil for new settlements necessitating land acquisition by the governing bodies, who,in turn, were working out policies towards the Indians on land ownership. A dichotomy clearly developed, with the Indians retaining prior right of natural occupancy to the soil but being generally ignored whenever territory was transferred in large blocks between nations. The system of using treaties for the purchase of land gradually evolved. The treaties were negotiated by the Crown and later by the Federal government, on the one hand, and with the individual tribes on the other. However, individual states occasionally negotiated separate treaties in order to secure their right to the soil.[3]

By 1770, over two million people of European and African origin inhabited the thirteen colonies, supporting an economy of sufficient productivity to engage in export trade with the World market. Virginia

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[1]Ibid., pp. 33-39.

[2]Ibid., pp. 42-48.

[3]Reginald Horsman. Expansion and American Indian Policy, 1783-1812. Lansing, Michigan: Michigan State University Press, 1967, p. 1.

and Maryland became the principal suppliers of tobacco; the lower South produced rice and indigo; New England produced fish and forest products, some manufactured items and also engaged in shipping; and the middle Colonies developed an extensive commerce based on surplus farm products such as wheat. In spite of sectionalism, common interests were beginning to develop between the colonies.[1]

The treaty system, first employed by the Spanish, was adopted by the other European powers. From time to time, British colonies negotiated treaties with the Indians prohibiting unauthorized purchase of Indian land by individual colonists. The effect of laws which were passed in this connection was to:

> curtail the problem of relocation and resettlement of Indians and tribes; to eliminate conflicts of land titles that otherwise resulted from overlapping grants by individual Indians or tribes; to protect the Indians in some measure, against fraud, and to center in the colonial governments control as well as a valuable monopoly....On several occasions the Crown indicated its belief in the sanctity of treaty obligations. Some of the treaties contained definite stipulations regarding land tenure.[2]

Trade, containing economic, political and military aspects, was the major point of contact with the Indians. Firearms and liquor were banned by the governments as items for trade; however, liquor was traditionally used by traders to strike a hard bargain and its use was hard to stop, even when a licensing system was established to control the trader. The fundamental policy of the British was to establish an Indian dependency upon their traders as a source of goods, a policy which was of great benefit during the French and Indian War.[3]

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[1]Graebner. Op. Cit., pp. 67-68.

[2]Frank B. Horne and Margaret F. Hurley. Federal Indian Law. Washington: U. S. Government Printing Office, 1958, p. 166.

[3]Francis Paul Prucha. American Indian Policy in the Formative Years. Cambridge, Mass.: Harvard University Press, 1962, pp. 6-11.

In an attempt to set a new policy for the purchase of Indian Lands, George III issued the Proclamation of 1763. It proclaimed three things:

> It established the boundaries and the government for the new colonies, offered specific encouragement to settlement on the newly acquired areas, and established a new policy in Indian affairs.[1]

This proclamation attempted to create a boundary line between the Indians and the whites, giving rise to the idea of "Indian Country." Tribal ownership of land was recognized and care was taken to regularize the purchase of these lands from the natives. In some colonies, clearly marked reservations were determined, but in other settlements, the Indian families continued to live side by side with the whites. The Governors were forbidden to issue any warrants for surveys or patents involving land beyond the boundaries set for the Indian country. The line was not considered a premanent boundary within the older colonies, but a means of providing for a regulated acquisition of Indian lands in a way that would not increase resentment of the Indians. Precedent was thus set for a separation between the white and red man, an action which was to have later application under the constitution of the United States.

POLICIES ESTABLISHED AFTER THE REVOLUTION

In 1774, the Quebec Act provided a civil government for the French-speaking Roman Catholics inhabiting Canada and the Illinois country by extending the boundaries of Quebec to include the French communities between the Ohio and Mississippi rivers, granting political rights to Roman Catholics, and recognizing the legality of the Roman Catholic Church within the enlarged province. This Act began to unite the colonies,who feared Catholicism, against England, culminating in and setting the emotional climate for the Continental Congress which began its session

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[1]Prucha, Op. Cit., pp. 13-25

at Philadelphia in September.[1]

Several policies were carried over from the Colonial period, particularly the Imperial Policy which sought to conciliate native groups in order to provide stability and encourage commerce. In opposition to the Imperial Policy was the settler's policy which promoted the removal of the natives and the acquisition of the land. T he new Government of the United States pursued an increasingly expansionist, anti-Indian policy during the period in which it was operating under the Articles of Confederation and the early years of its operation under the Constitution.[2]

Most of the abuses of the traders and the encroachment of white settlers and hunters upon Indian country came from the colonists. The British had a good record of dealing justly with the Indians, protecting their rights to the land and furs, and furnishing goods in trade at a fair price. They were successful, therefore, in retaining the allegiance of most of the Tribes during and after the War for Independence.[3]

Although the colonists acknowledged the Indian right of soil, the inevitability of/ the seizure of Indian land by force was ever present. The Indian quickly realized that the colonist's desire for land ownership was not compatible with Indian occupancy.[4]

The Northwest Ordinance of 1787 contained the following Article on Indian Affairs:

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[1]Williams, Op. Cit., pp. 131-136.

[2]Forbes, Op. Cit., p. 98.

[3]Prucha, Op. Cit., pp. 26-27.

[4]Horseman, Op. Cit., pp. 1-2.

> Article 3. The utmost good faith shall always be observed towards the Indians; their land and property shall never be taken from them without their consent; and in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.[1]

This was the first of many measures by which the Continental Congress used "plenary" authority to legislate means of land acquisition and control over Indian tribes.[2] Three other Statutes were passed by the Congress which set precedents for the power of Federal authority in their dealings with the Indians. The Act of August 7, 1789, involved the power to make war and, presumably, peace; the Act of August 20, 1789, gave the Federal government the right to make treaties; and the act of September 11, 1789, gave the new Government the power to spend money.[3]

The Treaty of Paris ending the Revolutionary War, signed on September 3, 1783, recognized the independence of the United States granting "astonishingly liberal"boundaries. The territory of the new Republic was to stretch from the Atlantic Ocean westward to the Mississippi River with the northern limits roughly those of today and the southern boundary extending to Spanish East and West Florida. The colonists had made no concerted effort during the war to conquer the area south of the Ohio river although George Rogers Clark had seized the British posts in the southwestern part of the territory north of the Ohio river.[4]

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[1]Horne, Op. Cit., p. 94.

[2]Ibid,

[3]Ibid, pp. 94-95.

[4]Thomas A. Bailey. A Diplomatic History of the American People, 6th edition. New York: Appleton-Century-Crofts, Inc., 1958, pp. 47.

Following the Treaty of Paris, Britain failed to withdraw from a chain of military and trading posts stretching from Lake Champlain to Lake Superior within the river-and-lake boundary of the United States.[1] This period was marked by territorial controversy between Spain, England, and the United States. Spain played a game of intrigue with the powerful Indian tribes located in the southwestern part of the new nation by providing them with firearms for forays against American settlers. The British in the north tightened their control over the trading posts through similar tactics. As a result, both were able to exercise virtual control over more than one half of the territorial domain of the United States.[2] Britain evacuated these trading posts following Jay's Treaty which was signed in London on November 19, 1794. Following the settlement with the British, a similar treaty was signed with the Spanish in the Treaty of San Lorenzo on October 27, 1795, whereby his Catholic Majesty granted the right to the United States to navigate the lower Mississippi, the right of deposit at New Orleans, and recognized the thirty-first parallel to the Chattahoochee as the Southern boundary of the United States. By 1798, the Spanish government had evacuated the posts it held north of lattitude 31°.[3]

The Louisiana Purchase was negotiated with Napoleon in April, 1803 giving the United States rights to all of the Mississippi basin.[4] West

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[1] Ibid, pp. 57-58.

[2] Ibid, p. 60.

[3] Morrison, Op. Cit., pp. 348-349.

[4] Ibid, pp. 109-114.

Florida was occupied in 1810 and annexed by the Act of May 14, 1812, while Mobile was occupied in April, 1813. East Florida was obtained in the Adams-Onis treaty on February 22, 1819. Included in this treaty was the provision that the United States give up her tenuous title to Texas in exchange for a definition of the western boundary of the Louisiana Purchase and vague rights of Spain to the Oregon country.[1] The Convention of 1818, negotiated in London between England and the United States set the 49th parallel as the boundary between the United States and Canada.[2]

In 1824, a treaty was negotiated with Russia by which she agreed to withdraw from 51° to 54°40' lat. which represents the present southernmost tip of Alaska.[3] On June 15, 1846 a treaty was signed with England setting the 49th parallel as the boundary line between the United States and Canada.[4] Texas was annexed into the Union on March 1, 1845, followed by a peace treaty with mexico on February 2, 1848 ceding New Mexico and California to the United States and confirming the American title to Texas as far as the Rio Grande. The last acquisition was the Gadsden purchase on December 30, 1853, which now comprises the southern portions of Arizona and New Mexico and through which the Southern Pacific railroad was built.[5] The present territorial boundaries of the continental United States were thus secured.

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[1]Bailey, Op. Cit., pp.165-175.

[2]Ibid., p. 160.

[3]Ibid., p. 188.

[4]Ibid., p. 234.

[5]Ibid., pp. 250-265.

It is interesting to note that in all of these negotiations, no consideration was given to the tribes who occupied the land. The government of the United States entered into agreements with foreigh powers of Europe for their rights to the territories in question. The effect of these arrangements will be further examined, but first the development of the laws and philosophy toward them will be investigated.

Early United States Policies

In the years immediately following the revolution, it was assumed that Indian lands could be secured simply as a result of the victory over the British. No estimation was made as to the extent of Indian resistance to white settlers. Washington and Knox, his Secretary of War, contended that soldiers or ex-soldiers should settle the land, compel the Indians to withdraw, and open the western lands to sale and settlement. General Philip Schuyler recommended to the President of the Continental Congress during 1783 that it was futile to continue a war against the tribes since the Indians would return as soon as the armed soldiers withdrew. He argued that peace would allow occupation of an extensive area of new territory and that the encroaching white settlements would produce a scarcity of game, inducing the tribes to retire further west and making it possible to purchase the land for a minimum amount. Furthermore, if the Indians were allowed to remain in the territories, they would not "add strength to Great Britain, harass the American frontiers from a safe base, and deprive the United States of the fur trade."[1]

The views of Washington were reflected to a congressional committee through its chairman, James Duane, on September 7, 1783. Washington

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[1]Horseman, Op. Cit. pp. 5-7

agreed with the comments of Schuyler and suggested the abandonment of his previously stated position which called for using force to persuade the Indians to move to the west. He believed: 1) that the Indians should give up all their prisoners and be informed of the cessions made to the United States by Great Britain in the Paris treaty; 2) that since the Indians fought with the British in the Revolution, they could be compelled to retire with the British beyond the Great Lakes, but that the United States was prepared to be generous and allow them to stay; 3) that the United States would establish an American-Indian boundary line beyond which every effort would be made to restrain our people from hunting or settling; 4) that care should be taken not to yield or grasp too much; 5) that compensation should be given if the Indians insisted; and 6) that it should be made a felony for anyone to settle beyond the established line. Washington did not consider the line separating the Indians from the whites as a permanent boundary, but proposed to purchase their lands instead of driving them out by the force of arms.[1]

Horsman feels that there were several miscalculations in these arguments: 1) the assumption was wrong that the Indians, who had sided with the British in the Revolution, would willingly make a cession to the Americans and would be thankful to be allowed to remain on what was left; 2) The Indians already were in possession of the territory of what is now Ohio and would be hard to dislodge; 3) it was a fallacy to feel that Indian wars could be avoided as the American-Indian boundaries were moved westward through further cessions; 4) the Indians would put up a desperate resistance when they were faced with the loss of their traditional homes.[2]

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[1] Ibid., pp. 7-9.

[2] Ibid., pp. 9-10.

On September 22, 1783, the Continental Congress issued a proclamation prohibiting settlement on all lands inhabited or claimed by Indians outside the limits or jurisdiction of any State thereby reserving the right of treaty making for Congress. They had need to retire a rising national debt and proposed to accomplish this by selling land to settlers in the Ohio valley after cessions had been made by the tribes as reparations of war. They argued that reparations by the Indians were necessary to compensate for acts of aggression committed during the Revolutionary War. The congressional action failed to take into account several factors: 1) they assumed that the Indians could be dealt with as though they lacked even a right of soil to the land on which they lived; 2) they assumed that the Indians would accept cessions of land as a form of punishment for losing the war, ignoring the fact that, for the Indians, the Revolution had been only one episode in their long struggle of resistance to European settlers; and 3) the Indians had not suffered heavy reverses on the battlefields west of the Appalachians during the war.[1]

The United States sought two historically incompatible goals in their problems with the Indians during this early formative period: 1) peace with the Indians; and 2) possession of the lands in the Eastern Mississippi Valley. To provide an institutionalized method of attaining these goals, on August 7, 1786, Congress established an Indian department. This newly formed department imposed federal control over Indian affairs by forming separate districts north and south of the Ohio River; by appointing a division superintendent responsible to the Secretary of War; and by permitting only licensed United States citizens to reside or trade among the Indians.

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[1]Ibid., p. 12.

The most common procedure utilized by the Federal government to negotiate a treaty was an intimidative maneuver characterized by threats and some movement of troops. These "forced purchases" were, of course, no better than forced cession from the Indian point of view.[1] It should also be noted that many of the provisions of the early treaties were later integrated into Federal statutes pertaining to Indian affairs.

With the establishment of the new Constitutional Government, in the Spring of 1789, Washington submitted to the Senate a report from the Secretary of War on the Treaties of Fort Harmar. In this report he examined the changes in policy which had occurred since 1787, giving them more formal expression in the new Government. He stated that the Indians were prior occupants and possessed the right of the soil; that it could not be taken from them except by their free consent or by the right of conquest in case of a just war (however, a disturbing element in this position is that all wars are just in the eyes of the involved nation). Since conquest would be too costly, every effort should be made to purchase these rights. What he did not recognize is that the Indians would fight when existing boundaries were threatened by the advance of the American settlers.

At the same time, Knox, asserting his faith in the natural man and his capabilities for improvement, emphasized bringing civilization to the Indians. He contended that assimilation of the native population into the American culture was the only way to avoid annihilation of the tribes. The fruits of civilization as a compensatory means thereafter formed a basis of our national policy of Indian land acquisition.[2]

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[1] Ibid., pp. 32-47.

[2] Ibid., pp. 53-56.

The influence of Knox and Washington had a decided effect upon the types of legislation which were to be enacted in the immediate future, such as the Trade and Intercourse Act, passed on July 22, 1790, which dealt with the conduct of licensed traders, the sale of Indian lands, the commission of crimes and trespasses against Indians, and the procedure for punishing white men committing offenses against Indians. The substance of this Act remains law to this day.[1]

The second Trade and Intercourse Act of March 1, 1793, introduced additional provisions: a prohibition against settlement on Indian lands with authority given the President to remove such settlers; a section on horse thieves and horse traders; a section prohibiting employees in Indian affairs from having any financial interest with the Indians; goods and services to be furnished the Indian tribes; and a clarification of the legal status of Indians within the jurisdiction of any of the individual States.[2]

The Act of 1796 defined Indian country, prohibited the driving of livestock on Indian lands, required passports for persons traveling into tribal domain, and provided for punishment of Indians under certain conditions.[3]

The Act of April 18, 1796, established Government trading houses under control of the President of the United States. The Act of May 13, 1800, provided for the issuance of rations out of Army provisions to Indians visiting the military posts of the United States. A permanent Trade and Intercourse Act was passed on March 30, 1802, which incorporated the

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[1]Horne, Op. Cit., pp. 95-97.

[2]Ibid., pp. 97-98.

[3]Ibid., p. 98.

previous temporary provisions and added a section dealing with the liquor problem.[1]

An important statute affecting education was adopted on March 3, 1819, entitled "An act making provision for civilization of the Indian Tribes adjoining the frontier settlements." Section 1 provided, where the President judged it practical, instruction be given, on consent of the Indians, in reading, writing, and arithmetic. Section 2 established a permanent annual authorization of $10,000 for carrying out the provisions of section 1.[2]

Early Development of Indian Education

The native Indian culture was permanently influenced by English trade, the introduction of tools, agricultural implements, and weapons of war; but the development of educational facilities was hampered by the slowness in centralizing colonial administration, Governmental indifference, frequent unfitness of English clergymen to teach Indians, interdenominational strife, and Indian uprisings against white encroachment.[3]

Colonial Indian education by the British and French aimed to make converts, train missionaries, and produce laborers skilled in European work techniques. Academic training was reserved for those who were to go into the ministry and a few Indians became missionaries among their people. Some Indians attended Harvard, Dartmouth, Princeton University, and the college of William and Mary. Despite a century and a half of English rule, little modification in the European sense had occurred among the

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[1]Ibid., pp. 99-100.

[2]Ibid., p. 101.

[3]Evelyn C. Adams. American Indian Education. Morningside Heights, New York: King's Crown Press, 1946, pp. 23-24.

Indians, with little change in the basic native economy.[1]

The Continental Congress continued the British policy of recognizing tribal occupancy. Their main course revolved around the shifting of the Indian population to new locations, especially in cases where the presence of the Indians impeded national growth. The tribes were often alienated in the process. Early action of Congress provided funds to maintain ministers and teachers among the Indians to serve as diplomatic agents during the war. This concerted effort of the teachers and missionaries was a factor in the colonial victory since they helped keep peace between the Oneidas, Tuscaroras, and Stockbridge tribes and the Government, demonstrating the use of congressional funds for Indian education as a matter of expedience in times of political and military crisis.[2]

Indian education remained under exclusive supervision of the Churches until 1793, when resident agents appointed by the President assumed control of a limited number of practical education projects subsidized by the Government. According to Prucha:

> As time passed and experience deepened, it became ever clearer that it was not possible for the two races--the one civilized, the other savage--to exist together in some sort of amalgam; the Indians must become civilized if they were to form an integral part of the American society. This was the basic assumption which governed the thinking of the men who molded American Indian policy, remote from the brutal outlook of many frontiersmen, who would happily have accepted the total destruction of the aborigines.
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> The process of civilization was to be marked by--indeed it was to be brought about by--transition from the nomadic life of the hunter, who depended on the chase, to the settled life of the farmer, who depended on the surer sustenance provided by the ways of agriculture and it was assumed that as soon as Indians learned the ways of agriculture and domestic manufacture, they would see the advantages

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[1] Ibid., pp. 25-26.

[2] Ibid., pp. 26-68.

> of this way of life over their old habits and readily, if not eagerly, adopt them. The Indians would then become absorbed into the American society.[1]

Federal funds for the practical training of the Indians were designated through executive order, congressional appropriations, and treaty stipulations. In 1792, Washington directed that $500 be expended annually for the purchase of clothing, domestic animals, and farming implements, and the employment of useful artisans to reside among the six nations. The amount was increased in 1798 to not more than $20,000 annually but reduced in 1802 to $15,000. Society funds, treaty funds and various forms of Federal aid, such as housing or additional land, maintained the early educational system. The majority of the treaties made before the 1800's contained sections pertaining to Indian education although only limited provisions were present during the next decade due to increased Indian hostility, especially during the War of 1812.[2]

The first permanent source of revenue for Indian education was provided in the Statute of March 3, 1819, followed in 1820 by a designation of treaty annuities for educational use.

A Federal policy in which organized missionary work was combined with Federal subsidies developed with the advent of the first system of boarding and day schools, first proposed by the American Board of Commissioners for Foreign Missions in 1820, calling for the establishment of four boarding schools and thirty-two day schools, and for missions west of the Mississippi River.[3]

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[1] Prucha. Op. Cit., pp. 213-214.

[2] Adams. Op. Cit., pp. 29-32.

[3] Ibid., pp. 32-33.

POLICIES DURING THE INDIAN REMOVAL PERIOD

Expansion Policy

During the middle and latter part of the 19th century, the belief was widely held that it was the destiny of the United States to expand its territory over the whole of North America and to extend and enhance its political, social and economic influences. The application of this "manifest destiny" continued to accelerate the rate of encroachment of the white settlers into the Indian country with the Federal government making only a token effort to enforce the treaty provisions, but never losing sight of the goal that peaceful cession would promote westward expansion. Armed intervention became the last resort when peace was not possible. The period was marked by a continuous series of illegal white settlements, followed by requests for cessions. Prucha says that the energy of the government in removing intruders was:

> proportionate, either directly or inversely, to a number of other circumstances: to the length of time during which the Indian claims were expected to be maintained; to the seriousness of Indian objections to the intruders, since often removal was the only way to prevent an Indian war; to the necessity of convincing the Indians of the government's good faith, in order to keep them in a proper frame of mind for some impending treaty, at which more concessions of land were to be sought; to the pressures of white settlement, for full-scale drives into an area usually led to new treaties of cession rather than to removal of the whites; to the boldness and aggressiveness of the agents and the military commanders in enforcing the laws; to the military forces available in the area where encroachment was threatened; to the strength of frontier opposition to military action against the intruders; and to the color of the title which the settlers on the Indian lands could display and the character of the settlers themselves.[1]

Leaders, such as Thomas Jefferson, felt that American expansion could be carried out with justice towards the Indian, but after becoming President, he found a reluctance on the part of the Indians to enter into

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[1]Prucha. Op. Cit., pp. 185-187.

negotiations for the sale of land with the rapidity dictated by the expansion policy. The frontiersmen considered the aborigines to be "savages who murdered and tortured and burned" and had little regard for them as human beings. As a result the Federal government was faced with a series of restraining actions against the frontiersmen, but in the end the vision of a great nation extending to the Mississippi and beyond decided against the Indians.[1]

Horseman sums up the Indian side of the story by saying:

> The fatal flaw in the whole policy was a misjudgement of the Indians themselves; a misjudgement that perhaps stemmed from an unwillingness to face reality. The Indians did not want to yield their lands either to conquest or by purchase and were prepared to fight rather than accept the constant requests for sales of land. Rather than the land beyond each boundary slipping easily and quietly into American hands, each major advance brought bitter resentment and Indian hostilities; they resent forced purchase as they had resented the land appropriation of the years immediately following the Revolution. Moreover, the bringing of civilization was no solution. Though this was not realized in the post-Revolutionary period, acculturation was a long and incredibly difficult process. And, of course, even where limited success was achieved--notably among the Cherokees--it was quite obvious that whatever the desires of the government to maintain the good reputation of the nation, the frontiersmen were more interested in the Indian giving up his land than learning to farm it.[2]

The moral justifications of the benefits of civilization which continued to guide Federal policy eventually would require an adequate judicial system for the Indian country wherein the Indians were treated with equally scrupulous justice as the whites. In practice, this was not the case since the legal machinery depended upon the local courts, resulting in a continuous stream of jurisdictional problems. The laws and treaties were not effective in themselves as long as the lack of enforcement made a mockery of the statutes, resulting in no established channel through which

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[1]Horseman. Op. Cit., pp. 104-109.

[2]Ibid., pp. 172-173.

grievances could be aired. Frequently the use of arms was necessary, forcing an Indian removal to lands further away from the whites.[1]

Legislation

The decade of the 1830's was one of the most significant in the history of Indian legislation. The Act of May 28, 1830, governed Indian removal; the Act of July 9, 1832, established the post of Commissioner of Indian Affairs; two Acts were passed on June 30, 1834, one the Indian Trade and Intercourse Act, and the other providing for the organization of the Department of Indian Affairs; and the Act of January 9, 1837, dealt with the regulation and disposition of proceeds of ceded Indian lands.[2]

The Indian Removal Act of May 28, 1830, established in general terms the policy for the exchange of Federal lands east of the Mississippi for those further west. This had already been done in some cases. The Act provided: 1) voluntary exchanges, 2) payments for improvements, and 3) guarantees concerning permanence of the new homes.[3] The passage of the Removal Act was supported by such arguments as: desire to possess land currently being held by the Indians; desire to speed the economic development of the country by not having the aboriginal population stationed within the States proper; wish to lessen the causes of Indian wars; and other humanitarian reasons.[4] After this legislation was passed, a new approach to the Indian problem evolved.

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[1]Prucha. Op. Cit., pp. 188-206.

[2]Horne. Op. Cit., p. 102.

[3]Ibid.

[4]Felix S. Cohen. Handbook of Federal Indian Law, 4th Printing. Washington: United States Government Printing Office, 1945, p. 9.

Western Domain

In 1820, Major Stephen H. Long began an expedition which was to establish a military post at the mouth of the Yellowstone River in what is now northwestern North Dakota. The expedition had a scientific purpose since Long was to report to the States the nature and resources of the western plains between the Missouri and the Rockies. Long concluded that this territory was almost wholly unfit for cultivation and was uninhabitable by groups of people who depended upon agriculture for their subsistence.[1] It did not occur to him that the grass which supported the buffalo would likewise feed domestic stock or that grassland could be equally useful for raising wheat and corn. He felt that the western plains could not support civilized life, but was suitable only for the buffalo and the hunter. What would be better than to create a western domain where the Indian might roam unmolested and where the white settlements would be prohibited? White settlements would never crowd the Indians from this region.[2] But Congress never passed any legislation setting up a permanent Indian territory west of the Mississippi River, and without this, there was little hope that the pledge for Government protection after Indian removal and resettlement in the west could be honored, or that the new Intercourse Act could be better enforced than the former ones. The final chance for a permanent solution to the Indian problem involving a separate Indian Territory was hereby forfeited.[3]

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[1] Flora Warren Seymour. The Story of the Red Man. New York: Longmans, Green and Co., 1929, pp. 130-134.

[2] Ibid.

[3] Prucha. Op. Cite., pp. 272-274

A result of the passage of the Indian Removal Act and the new Trade and Intercourse act was the gradual development of the idea of a reservation. The Indians in the area west of the Mississippi would be induced to set boundaries to their lands and assign areas for the use of the incoming tribes. Those who were still living in the East would relinquish their lands, accept western areas in their stead, and receive money in return. All of the different land cessions involved payments of money and kind. The army was to negotiate the treaties with each individual tribe. Indian agents were appointed to administer the terms of the agreements. Stipulations were made for the teaching of mechanical arts; schools would be established, but would be the responsibility of the missionary rather than the government giving education its first major emphasis in Indian relations.[1]

Transfer of Bureau of Indian Affairs (BIA) to Department of Interior

On March 3, 1849, Congress passed an act establishing the new Department of Interior, marking a termination of direct War Department control over the Indians.[2] The Indian Office and the Land Office were now combined and the BIA passed from military to civil control. The transfer had relatively little effect on the administration of Indian affairs because the office had been essentially a civilian bureau since 1834. However, the debate continued in Congress concerning the wisdom of this change: opponents felt that because of the Indian unrest during this period, there would be better cooperation between the Army and the Bureau if they operated under the Secretary of War; those in favor of having the BIA

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[1]Ibid., pp. 137-140.

[2]Horne. Op. Cit., pp. 110-111.

remain in the Interior Department felt that returning it to the War Department would once again emphasize war with the Indians as a national policy.[1]

By 1849, the majority of the Eastern Tribes had been relocated on reservations west of the Mississippi at great cost to themselves. The Plains Indians were disturbed because they were being forced to make room for their brothers as they moved in from the east. The methods used to induce the Plains Indians to move to reservations were negotiation, conciliation, and persuasion, but these were not always successful.[2]

Education in the removal period.

It had been assumed by the whites that as soon as the Indians learned the ways of agriculture and domestic manufacture, they would see its advantages and consequently be eager to adopt the new culture, and thus become assimilated into the American Society. In as much as the whites were already blessed with this high degree of civilization, they had the responsibility to bring these blessings to their less fortunate red bretheren. It was noted that those tribes who were the most advanced in pursuits of industry were also the ones who were most friendly to the United States. Therefore, the Indians should be encouraged to learn the trades and skills of the whites. The next phase was to establish schools for Indian children which was done mainly by the missionaries, and by private and public funding. The idea of Indian removal gained adherents from the slow progress that was being made in education. It was felt that the contact between the Indians and the whites had deleterious effects upon the red man that far outweighed the benefits. If this were true,

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[1]Cohen. Op. Cit., pp. 10-11.

[2]Stuart Levine and Nancy Oestreich Lurie. The American Indian Today. Deland, Florida: Everett/Edwards, Inc., 1968, p. 37.

then if the Indians could be removed beyond the contact with the whites, the slow process of education, civilization, and Christianization could and would take place.

By the 1840's more than 70,000 Indians had been transferred to lands west of the Mississippi. The expenses were defrayed by the Government after new treaties were drawn with all of the tribes, substituting new lands for the old and providing annuities. Schools were temporarily suspended during the actual removal process after which education followed four main streams: 1) the manual labor school was introduced; 2) the mission school was continued; 3) certain tribes set up their own schools; and 4) the Government, together with the missionaries, provided practical training for adults. The manual labor school included instruction both in academic subjects and in the use of farm tools and implements. The hope was that these schools would eventually become self-supporting. The mission school offered religious academic instruction, and also engaged the student in part time labor to defray its costs. The tribal school, first appearing following the removal, was under tribal supervision, and was sometimes financed by tribal funds, as seen among the Cherokees and Choctaws. The fourth classification was a program for practical training of adults, supported by both the government and the missionaries. In 1848, there were 16 manual labor schools in operation and 7 under construction as well as 87 other schools with a total enrollment exceeding 3,500 students. Success seemed assured until new developments aided by rapid territorial and industrial expansion once again interfered. [1]

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[1]Adams. Op. Cit., pp. 37-41.

FROM THE POINT OF VIEW OF THE GOVERNMENT, the Intercourse Acts had failed to safeguard the Indian to a very great extent, making removal necessary. In a letter to Andrew Jackson in October, 1817, James Monroe asserted that "the hunter or savage state requires a greater extent of territory to sustain it, than is compatible with the progress and just claims of civilized life, and must yield to it." In December of the same year in his annual message to Congress, he added that it was right that the hunter should give way to the farmer:

> for the earth was given to mankind to support the greatest number of which it is capable, and no tribe or people have a right to withold from the wants of others more than is necessary for their own support and comfort.

Monroe, Calhoun, and Jackson were convinced that an end to the independent status within the white settlements should be the goal for the good of both the Indians and the whites.[1] Future developments bear out that this type of reasoning was not restricted to the few, but, on the contrary, was diffused.

RESERVATION PERIOD

Background

A major factor in the acculturative process of the Indian tribes was seen in the question of autonomy. Previous to the removal period, tribal members enjoyed a traditional way of life, free from outside interference, and were able to adopt customs and artifacts of other peoples as they chose; but this freedom was now to be restricted by placing the Indians under some form of control under the agents of American civilization. They were not treated as equals or given opportunities to accept or reject the white culture; on the contrary, the Indian was placed in a subordinate position, with the contact being determined by the nature of the white culture. In

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[1]Prucha. Op. Cit., pp. 213-227

practice, this meant that the dominant culture would enforce social and legal concepts by educational or other means, or if necessary, by military power.[1]

The loss of autonomy which followed the placement of the Indian tribes on reservations was another step toward the establishment of a dependency relationship between the Indians and the whites. Much of the subsequent history will be involved with this dependency and its effects on Indian life.

Indian country was used as a buffer area between the United States and Mexico until the peace treaty was signed with that country on February 2, 1848, after which Indian country became a barrier to western economic development. By 1854, the United States had acquired approximately a million square miles of territory, bounded by the Indian country, the Pacific Ocean, Canada, and the Rio Grande, doubling the Indian population. Although treaties were negotiated with the new tribes, the boundaries set by these compacts did not remain permanent due to the fact that new settlers were constantly encroaching on Indian lands, as demonstrated by the occupation of Utah by the Mormans in 1846, and the spread of other white settlements all of the way to the Pacific Ocean.

Two important events occurred in 1862: the passage of the Homestead Act which offered free lands to permanent white settlers in western lands; and the subsidization of transcontinental railroads by land grants which encouraged intercontinental railroad construction. By 1869, the Union Pacific railroad alone had been granted thirty-three million acres of western lands, and these grants continued to mount until by 1871 Congress had voted more than one hundred and fifty million acres to rail lines.

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[1] Robert F. Berkhofer, Jr. Salvation and the Savage. Lexington, Kentucky: University of Kentucky Press, 1965, p. 65.

Buffalo herds were depleted as the white man utilized their meat to feed the railroad workers and their hides for manufacture. The Indians were no longer naive, often finding themselves in open conflict with the Federal government and the troops which were placed throughout Indian country.[1]

A Congressional committee was appointed to investigate the situation among the Indian tribes in 1865. Its report disclosed the state of the diminishing tribes, the failure of the government's work, the slight influence of schools and the discouragement of school teachers and missionaries. The Committee recommended 1) reservations and education as a more humane and less costly policy than military control, 2) boarding schools remote from the native environment, and 3) the services of farmers, teachers and missionaries.[2]

The Appropriation Act of March 3, 1871, making Federal policies a matter of legislation, provided for termination of treatymaking with Indian tribes, while at the same time denying to them the right to free choice of counsel for the redress of injuries.[3]

The rapid settlement and development of the territory west of the Mississippi necessitated legislation for acquisition of these lands and resources from the Indians.[4] As early as 1851, Commissioner Lea wrote:

> I therefore leave the subject for the present, remarking, only, that any plan for the civilization of our Indians will, in my judgment

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[1]Adams. Op. Cit., pp. 41-42.

[2]Ibid. pp. 44-45.

[3]Horne. Op. Cit., pp. 114-115.

[4]Ibid. pp. 116-117.

> be fatally defective, if it does not provide, in the most efficient manner, first, for their concentration; secondly, for their domestication; and, thirdly, for their ultimate incorporation into the great body of our citizen population.[1]

The recommendation that the Indians be concentrated was actualized by reducing the size of the Indian reservations. The domestication policy had been a part of the goal of the BIA from the beginning. The incorporation of the Indians into the citizenry, however, marked a new departure from the theory and practice of removal and segregation.[2]

In his report for 1857, Commissioner Denver recommended that:

> their reservations should be restricted so as to contain only sufficient land to afford them a comfortable support by actual cultivation, and should be properly divided and assigned to them, with the obligation to remain upon and cultivate the same.[3]

This is a strong endorsement for a policy of using force, if need be, to cause the Indians to change their way of life from hunting and gathering to farming.

In the report of the Commissioner of Indian Affairs of 1870, Commissioner Parker noted that:

> The policy of giving to every Indian a home that he can call his own is a wise one, as it induces a strong incentive to him to labor and make every effort in his power to better his condition. By the adoption, generally, of this plan on the part of the government, the Indians would be more rapidly advanced in civilization than they would if the policy of allowing them to hold their land in common were continued.[4]

In his report of 1873, Commissioner Edward Smith stated:

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[1]Luke Lea, Commissioner. Annual Report of the Commissioner of Indian Affairs. Washington: U. S. Government Printing Office, 1851, pp. 12-13.

[2]Cohen. Op. Cit., p. 14.

[3]James W. Denver, Commissioner. Annual Report of the Commissioner of Indian Affairs. Washington: U. S. Government Printing Office, 1857, p. 4.

[4]Ely S. Parker, Commissioner. Annual Report of the Commissioner of Indian Affairs. Washington: U. S. Government Printing Office, 1870, p.9.

> A fundamental difference between barbarians and a civilized people is the difference between a herd and an individual..... The starting-point of individualism for an Indian is the personal possession of his portion of the reservation.[1]

The problem of Indian rights and the red man's role in the future of the United States was of great concern during this period as it was becoming apparent that the hunting grounds were rapidly being destroyed and the means of Indian subsistence would have to undergo a drastic change. The question was how? Congress answered by passing the Dawes Act(The General Allotment Act, on February 8, 1887 which contained, among others, the following provisions:

1) a grant of 160 acres of land to each head of the family and 80 acres to each person who was single and over 18 years of age and each orphan under 18, and 40 acres to each other single person under 18;

2) A patent fee was to be issued to every allottee but was to be held in trust by the government for 25 years;

3) A period of 4 years was allotted for the selection of the property after which the selection would be made by the Secretary of the Interior;

4) Citizenship would be conferred on any allottees and other Indians who would abandon their tribes and adopt the habits of civilized life.[2]

Cohen says that this bill had the endorsement of the Indian rights associations throughout the country and reflected the sentiment of most of the people. In summation, he declared:

The supreme aim of the friends of the Indian was to substitute

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[1]Edward P. Smith, Commissioner. Annual Report of the Commissioner of Indian Affairs. Washington: U. S. Government Printing office, 1873, p. 4.

[2]Cohen. Op. Cit., pp. 207-208

> white civilization for his tribal culture, and they shrewdly sensed that the difference in the concepts of property was fundamental in the contrast between the two ways of life. That the white man's way was good and the Indian's way was bad, all agreed. So on the one hand, the allotment system was counted on to break up tribal life....On the other hand, the allotment system was to enable the Indian to acquire the benefits of civilization. The Indian agents of the period made no effort to conceal their disgust for tribal economy.[1]

The doubters questioned that ownership of private property would transform the Red man, because of the fact that Indian life was bound up with the communal holding of land. On the other hand, supporters of the allotment policy felt that if every Indian owned his own piece of land, guaranteed by a patent from the government, and was restricted in his right to sell the same, he could enjoy a type of security superior to that provided by tribal possession. Powerful forces behind the allotment idea included the land-hungry western settlers and the railroad interests, who needed to increase their tonnage along the right of way. The Indians were persuaded that the allotted land, at least, would be theirs and they would never again be subject to removal; however, there was no apparent wide-spread demand for allotment from the Indians.[2]

The aim of allotment was based on a belief that Indians could be assimilated into the white rural population in a single generation if they were granted private property. Each individual was to receive his own allotment, which would average about 180 acres per family unit, and what land was left would be sold, the proceeds to be used to build up the farms of the Indians. The plan was not successful. The Indians were not technically prepared to manage farms at a time when subsistence farming was giving way to commercial farming. At the same time, a trend of decreasing Indian

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[1] Ibid., p. 208

[2] Ibid., pp. 208-210.

population was being reversed, resulting in fractionated ownership of property. What was meant to be a major measure of reform, promoted by humanitarians, amplified rather than remedied the problem.[1]

Indian Reorganization

The Dawes Act marked a sweeping change in the philosophy behind the treatment of Indians by the Federal government. It provided for the allotment of specific land acreage to individual Indians as a means of breaking down tribal structure and giving Indians an opportunity for a more civilized life. Its actual results were to diminish the Indian tribal economic base from 140 million acres to about 50 million acres as well as to cause severe social disorganization of the Indian family. Only minor legislation was passed for the next two decades, embodying piecemeal development of earlier statutes including amendments to the Allotment Act, the development of a body of law governing Indian education, increased protection for individual Indian rights and clearing up of Indian depredation claims. These provisions improved administrative functions of a system which originally was designed to release the Indian from dependence on administrative authority but was actually operating in reverse.[2]

After 1870 treaty-making with Indian tribes was terminated and replaced by negotiated agreements. Levine and Lurie summarize this period:

> It was the period from the 1870's to the 1920's during which the worst abuses occurred in regard to administration of Indian affairs. Most Indian people were denied the vote, had to obtain passes to leave the reservation and were prohibited from practicing their own religions, sometimes by force. Leadership and management of community affairs smacking of traditional forms and functions were either discouraged or ignored as proper representations of community interest. Children were dragooned off to boarding schools where they were severely punished if they were caught speaking their own languages. While these things all happened, shortage and rapid turn-over of Bureau personnel,

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[1]Levine. Op. Cit., pp. 38-39

[2]Horne. Op. Cit., pp. 118-122

> administrative apathy and occasional enlightenment at the local administrative level meant that the regulations were not always rigorously enforced. And the Indian societies themselves took a hand in playing off administrators, missionaries and other whites against each other to keep them busy while Indian people held the line in their determination to remain Indian. The ubiquity of factionalism in Indian societies which is so regularly deplored by those people, Indian and white, who are sincerely interested in helping Indian people make a better life, may actually have acted as an important mechanism of social and cultural survival for Indian groups. No outsider could gain total dominance for his programs aimed in one way or another at reducing Indian distinctiveness.[1]

The Statutes at Large lists the Act of June 2, 1924, as an act to authorize the Secretary of the Interior to issue certificates of citizenship to the Indians. This completed a process whereby various classes of Indians had successively been granted the status of citizenship. It remained for the decade of the 1930's, however, for the sweeping changes to occur in Indian legislation.

The Meriam Report, published in 1928, was a survey of social and economic conditions of the American Indian, and led to one of the most creative periods in Indian affairs. Its major findings were: that 1) Indians were excluded from management of their own affairs, and 2) Indians were receiving a poor quality of services (especially health and education) from public officials who were supposed to be serving their needs. The The impact of this report influenced the passage of the Acts of 1934 under President Roosevelt and Commissioner John Collier.[2]

The Wheeler-Howard Act (Indian Reorganization Act) of June 18, 1934, was equally as sweeping as was the Dawes Act of 1887. Its purposes as stated by Senator Wheeler were:

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[1]Levine. Op. Cit., p. 38.

[2]Ralph Yarborough, Chairman. Indian Education: A National Tragedy--A National Challenge, 1969 report of the Committee on Labor and Public Welfare, United States Senate. Washington: U. S. Government Printing Office, 1969, pp. 12-13.

1) To stop the alienation, through action by the Government or the Indian of such lands belonging to ward Indians, as are needed for the present and future support of these Indians.

2) To provide for the acquisition, through purchase, of land for Indians, now landless, who are anxious and fitted to make a living on such land.

3) To stabilize the tribal organization of Indian tribes by vesting such tribal organizations with real, though limited, authority, and by prescribing conditions which must be met by such tribal organizations.

4) To permit Indian tribes to equip themselves with the devices of modern business organization, through forming themselves into business corporations.

5) To establish a system of financial credit for Indians.

6) To supply Indians with the means for collegiate and technical training in the best schools.

7) To open the way for qualified Indians to hold positions in the Federal Indian Service.[1]

The Wheeler-Howard Act was an attempt to repair the damage of the allotment era. The government was now determined to recognize the importance of Indian communal life as an agency for preserving and encouraging social controls and values which would permit the Indians to pick and choose innovations to their culture by their own volition. The initiative was transferred from the BIA to the tribes themselves. It had been in operation for only seven years when World War II broke out. Many of the ablest leaders, both Indian and members of the BIA, were called into the service, resulting in very little advancement and possibly some regression in its application. There were also instances in which the Act itself needed revision if its purposes were to be fulfilled. The Indians would need more land, education, health, guidance, and a better consolidation of holdings owned by several heirs. The shortcomings of the Indian Reorganization Act probably stemmed from 1) the failure of administrators to understand

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[1]Horne. Op. Cit., p. 129.

how to motivate the Indians to take full advantage of its benefits, 2) the skepticism of superintendents about the ability of the Indians to take care of themselves, and 3) problems arising out of credit facilities, land purchase, and administration. However, on the whole, it was a move in the right direction.[1]

During the treaty period there was room for Indian movement and resettlement further west, and the tribes were treated as independent nations, allowing their members the individual freedom to retain their own culture or adopt white man's ways. The passage of the Dawes Act, a reversal of this policy, was an attempt to suppress Indian culture. Thereafter, the Indian was treated as a virtual prisoner, requiring all decisions to be made in Washington, placing the children in the classrooms even against their will, substituting white middle-class value systems for the tribal ways. The school was seen as the primary tool of assimilation.[2] The Indian Reorganization Act of 1934, another change of policy, allowed the Indian a high degree of self-rule. The goal was still assimilation, but methods of achieving it were changing.

Also changing were definitions of assimilation itself. In the Report of the Commission of the Rights, Liberties, and Responsibilities of the American Indian, Brophy and Aberle[3] note that the Bureau of Indian Affairs at one time considered an Indian assimilated if he wore civilian dress. But when William Zimmerman, Jr. was assistant Commissioner of Indian Affairs,

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[1]William A. Brophy and Sophie D. Aberle. The Indian America's Unfinished Business, Report of the Commission on the Rights, Liberties, and Responsibilities of the American Indian. Norman, Oklahoma: University of Oklahoma Press, 1966, pp. 20-22.

[2]Yarborough. Op. Cit., pp. 9-13.

[3]Brophy. Op. Cit., pp.9-11.

he determined assimilation in terms of white blood, literacy, business ability, acceptance of non-Indian institutions, and acceptance of tribesmen by whites. But these criteria were not adequate as they do not account for the fact that a person may adopt the outward ways of another culture without changing his basic emotions. In summation:

> The Committee on Indian Affairs to the Commission on Organization of the Executive Branch of the Government recognized that assimilation has failed if shedding the old culture takes the joy out of life, produces a feeling of inferiority, and destroys the drive and purpose of the Indians.[1]

TERMINATION

The Indian Claims Commission was established on August 13, 1946, making Indians eligible to file suits against the government arising from claims in law or equity, tort, or based on fraud, duress, unconscionable consideration, mutual or unilateral mistakes, the taking of lands without payment of agreed compensation, and fair and honorable dealings not recognized by existing rules of law or equity. The road was now open for peaceful settlement concerning claims based on the "taking" of lands without agreed compensation and for the withdrawal of Federal trust over reservations and individuals. By January, 1961, 128 petitions had been adjudicated with awards totaling more than thirty-seven million dollars, but after 1960, the pace quickened.[2] The prospect of awards of large amounts of money had served to keep many Indians on the reservations. Now that the awards were being processed, the method of distribution became a central issue. On the one hand, since these moneys could be used for tribal investment and the experience gained by the tribes in money matters would elevate the status of the tribal government in those

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[1]Brophy. Op. Cit., pp. 9-10.

[2]Levine. Op. Cit., pp. 62-63.

reservations which had large land holdings, the economic base would be enlarged; but, on the other hand, many of the tribal members wanted the moneys to be dispursed on a "pro-rata" basis. Those Indians who did not live on the reservation had little to gain from tribal investment and tended to favor negating any proposition which would withold their share of the dispursements.[1]

Termination had been a long term objective of the Federal government and was the force behind those policies having assimilation as the ultimate solution. Traditionally, the ends remained the same, but the means were constantly shifting. The legislative base for the termination policy was laid in 1953 with the passage of Public Law 280, transferring Federal jurisdiction over law and order on Indian reservations to individual States, and House Concurrent Resolution 108, calling for the end of Federal services to Indians.[2]

The word "termination" has traditionally remained without definite meaning and may signify any one or all of the following:

> A relaxation of unnecessary Federal supervision over the government and business of Indian tribes and less control over the leasing and use of trust allotments of individuals.
>
> The rapid destruction of a tribal government that has operated for generations, thereby uprooting complex Federal, tribal and State relationships which are defined in hundreds of treaties, statutes, and court decisions.
>
> The forced sale of a substantial part of the tribal land and the dissolution of the trust on all allotments of members of terminated tribes.
>
> The subjecting of all tribal and trust-alloted land to State taxation regardless of the ability of the Indians to pay.
>
> The abandonment by the United States of education, medical and hospital treatment, road building, and other functions, and of technical

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[1]Ibid.

[2]Yarborough. Op. Cit., pp. 13-14.

> and administrative services and guidance to Indians in the management of their own affairs, without giving any assurance that the necessary services will be available from other sources as they are to other citizens.
>
> A violation of the expressed or implied obligations of treaties and agreements between the United States and a tribe for exemption from taxation, self-government, and performance of Federal services without these changes having had the unqualified consent of the tribe.[1]

The termination laws enacted since 1954 resulted in or were capable of effecting all of these consequences. The Indians, however, were citizens by Federal law and had all the rights possessed by their white neighbors; they were subject to no greater Federal control than any other citizens; they paid State and Federal taxes unless specifically exempted by treaty agreement or statute and most of the exemptions applied only to real estate or income from trust property; and the restrictions, by and large, had resulted from covenants made by the Indians with the United States in the form of treaties, agreements, statutes, and policies designed to protect them from losing their land and to assure the right of self-government, the inalienability and immunity from taxes of their land, and the services which the United States provided.[2]

The Indian, whether or not he sensed his difficulties, did not find his interests coinciding with termination and thus usually did not willingly want to substitute State control for Federal. Since 1950, the major controversy has been over the program calling for prompt termination of tribes with or without the consent of their members. The subcommittee report of the 91st Congress on Indian Education makes the following summary of the Klamath Termination Act (P.L. 587, 83rd Congress):

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[1]Ralph Yarborough, Chairman, Committee on Labor and Public Welfare, United States Senate. The Education of American Indians, The Organization Question, Volume 4. Washington: U. S. Government Printing Office, November 1969, pp. 496-497.

[2]Ibid, p. 496.

> The law and its amendments, taken together, furnish an example (not the only one in Indian history) of ill-considered and unsuccessful attempts to deal (in an all-inclusive measure) with Indians irrespective of their special way of life, their location, and property holdings. It also demonstrates that no termination of tribes, expecially those with large properties, should ever be deemed merely an Indian problem. It is inevitably a national problem, one upon the solution of which depends the welfare of people both near and far.
>
> In still another sense termination offers no pat answer to "the Indian problem," for the Indians themselves remain. They remain mostly where they were and as they were. For the government to act out of a sense of frustration and of haste to rid itself of the vexing questions involved in administering Indian affairs is bound to ensure failure. American policy, if it is to succeed, must aim at helping Indians to prepare themselves in advance of termination for self-reliant living in whatever is their prevailing social and economic framework. As this is accomplished tribe by tribe, termination will follow and follow from the Indians' own desire. Termination so conceived will be an act of statesmanship in the best American tradition.[1]

During the period of the 1950's, emphasis was placed on education, and on the attainment of economic parity primarily through programs of off-reservation employment. Most of the program planning was identified with termination.[2]

The 1961 Interior Department Task Force recommended that emphasis be placed on developmental programs designed to assist tribal groups to advance socially, economically, and politically to the point where special services are no longer required ; and, further, that termination should not be emphasized. the 90th Congress in 1968 modified the House Concurrent Resolution no. 108 of the 83rd Congress and included a consent provision regarding the removal of Federal supervision.[3]

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[1] Ibid., pp. 496-501.

[2] Ibid., p. 654.

[3] Ibid.

Laws and Acts Concerning Indian Education since 1877

1) The Dawes Act of 1877 providing for Indian allotments also provided for moneys accruing from the sale of Indian cessions to be used to pay the cost of taking Indian children out of their homes and placing them in Federal boarding school.

2) The act of June 7, 1897, banned appropriations for operations of sectarian schools under certain conditions; the Act of March 2, 1917, banned all appropriations to sectarian schools; and the Act of March 30, 1968, allowed Federal support for the education of Indian students in sectarian institutions of higher education.

3) The Act of May 25, 1918, provided that Federal funds may not be used for the support of education of Indian children who have less than one-fourth Indian blood.

4) The Snyder Act of November 2, 1921, laid the present basis for Federal support of education including the majority of the programs currently being carried out by the BIA Branch of Education.

5) The Citizenship Act of June 2, 1924, involved the responsibility of the States for the education of Indians as citizens. It entitled them to receive the same education as other residents of a State.

6) The Johnson-O'Malley Act of April 16, 1934, authorized the Federal government to enter into contracts with States or territories for education, medical attention, and social welfare of Indians. It was extended to include colleges and universities by Public Law number 74-634 in 1936. With the enactment of the 1958 amendments, this program allowed payments to become supplemental so that they could be used whenever the Bureau of Indian Affairs considered that the needs of Indian children were not being met under other Federal programs. The requirement for annual reports to Congress was repealed by Public Law 86-533 on June 29, 1960.

7) The Federal Impacted Areas Act of September 15, 1950, authorized financial assistance for construction by local agencies of certain minimum school facilities. The Act included Indian land within the definition of Federal property, making Indian children eligible under its provisions. The Amendment of August 8, 1953, added a new Title IV authorizing aid for areas burdened with large numbers of children residing on Federal property which included Indian children who could not be aided in areas where substantial increase of enrollment had not occurred since 1959.

8) Public Law 81-874, passed on September 30, 1950, authorized financial assistance for school maintenance and construction for school districts on which Federal activities had placed a financial burden. It excluded children receiving payments under Johnson-O'Malley funds, but in Amendments passed in 1958 and 1967, these provisions were removed.

9) The Act of June 4, 1953, authorized the transfer of Federal interests in land and improvements, which were used for school purposes, to State and local governments. An Amendment of March 16, 1962, increased the maximum acreage which may be transferred from 20 acres to 50 acres.

10) The Adult Vocational Training Act of August 3, 1956, authorized the BIA to provide a program which would help the Indians obtain reasonable and satisfactory employment. This is the Act under which vocational training and relocation programs were funded.

11) The Elementary and Secondary Education Act of April 11, 1965, as Amended through 1968, contained many provisions which applied to Indians. Title I provided for financial assistance to low income families and as amended in 1966, applied to Indians. Title II provided for grants for libraries, textbooks and other printed and published instructional material. Title III provided grants for the establishment or expansion of planning or innovative educational programs. Title VI provided for

increased educational opportunities for handicapped children and in the 1967 amendment, included Indian children. Title VII provided for expansion of imaginative elementary and secondary school programs designed to meet the needs of children with limited English speaking ability.

12) The Economic Opportunity Act of August 20, 1964, focused on pre-school children to provide health, nutritional, educational, social, and other services necessary to assist them to attain their full potential. Headstart was added by the November 8, 1966 Amendment and minor changes were made on December 27, 1967. The Economic Opportunity Act of August 20, 1967 provided for a VISTA program under Title VIII. Vista volunteers are currently being assigned to work on some reservations to help meet health, education, welfare, and related needs of the Indians.[1]

The current trend is to include the Indians in programs which were originallypassed to help the general population, resulting in many new governmental agencies coming into contact with the tribes , and at the same time, relieving the BIA of the sole responsibility for tribal welfare. The original goal, calling for assimilation of the Indians into the white culture, is still the same, but the means have changed. Whether the right means for eventual assimilation are now being put in effect, only time will tell. Certainly, the record to date, has not been encouraging.

SUMMARY

The nations who discovered and colonized the New World generally viewed the natives and their lands as resources to be exploited. This traditional pattern was adopted by the Colonists who,basically,

were interested in land for their settlers rather than Indian production. The treaty system was in operation until 1871 after which federal

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[1]Ralph Yarborough, Chairman. The Education of American Indians, A Compilation of Statutes, 1969 report of the Committee on Labor and Public Welfare, U.S. Senate. Washington: U.S. GOvernment Printing Office, 1969, pp. 1-24.

Federal policies were a matter of legislation.

While the tribal organizations were strong, there was considerable autonomy for the individual Indian to pick or choose any of the aspects of the colonial culture which he might want to adopt. The Trade and Intercourse Act marked a milestone in attempts to allow the individual and his tribe freedom, but this was purchased at the price of ceding land. Between 1778 and 1871, when the last treaty was signed, Indian tribes ceded almost a billion acres to the United States. In return, the Indian retained inalienable and tax-exempt lands for themselves, along with government pledges to provide public services such as education, medical care, technical and agricultural training.[1]

The Allotment Act (Dawes Act) of 1887, is symbolic of the worst aspects of Federal Indian policy. During the 46 years it was in effect, the Indian land base was reduced from 140 Million acres to 50 million of the least desirable land. Individual autonomy was systematically destroyed, and the Indian was driven into depths of poverty from which he never recovered.[2]

The Merriam Report, published in 1928, noted that the Indians were excluded from management of their own affairs and that they were receiving a poor quality of services from public officials. These findings are valid today according to the Report of the Yarborough Committee of 1969.[3] The findings of the Merriam Report culminated in the Indian Reorganization Act of 1934, laying the groundwork for a more autonomous tribal government.

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[1]Yarborough. Op.Cit., p. 11

[2] Ibid., p. 9.

[3]Ibid., p. 13.

Following World War II, another reversal of policy was seen in the withdrawal program of 1947 and 1950, as well as the adoption of House Concurrent Resolution no. 108, passed by Congress on August 1, 1953. Termination was speeded up with disastrous consequences to the tribes who were affected.

During the 1960's, the emphasis changed from termination to developmental programs designed to assist tribal groups to advance socially, economically, and politically, with the view of becoming self sufficient. Termination was not to be imposed without the direct consent of the Indians.

The 91st Congress authorized an investigation on Indian education. They report that the consequences of our failure to provide an effective education for the American Indian has condemned him to a life of poverty and despair. [1] They found a low quality of virtually every aspect of schooling available to Indian children.[2]

CONCLUSION

In spite of nearly four hundred years of contact between the European and the Native American Indian, there is an immense lag in their stages of development. Although assimilation has been the ultimate goal of the Federal government for the Indian, and although the United States has had an excellent record of enculturating minority groups, its record with the Indian has been far from satisfactory. Orfield sums up the situation by stating:

> From the beginning there has been a deep ambivalence in the attitude of the American people toward the Indians. Greed and injustice have been answered with reforming zeal and used clothing collections. The stereotype of the lazy, drunken Indian is balanced by a romantic notion of the ancient Indian nations and by a vague feeling of national guilt. Too often, however, it has been those

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[1] Yarborough, Op. Cit., pp. X.

[2] Ibid. p. XII.

> living near the tribes and dealing with them who have victimized the Indian people. The well-meaning reformers, on the other hand, having only passing contact with the Indians, frequently proposed naive and simple solutions to many-sided problems. The most popular goal of such reforms has been rapid assimilation, giving the Indians a chance to succeed, like everybody else. The United States has successfully integrated many other minorities. Surely, it is argued, if the Indians were given incentive and some initial assistance, they would adopt the superior values of white culture. This theme recurs again and again in discussions of U. S. Indian policy.[1]

The Yarborough Committee recommended sixty changes in Indian policies and procedures. How extensive these changes will eventually become is up to Congress. There is one observation which is relevant, however, that is that the treatment of the Indian in the United States has been:

> A national tragedy and a national disgrace....that the 'first American' has become the 'last American' in terms of opportunity for employment, education, a decent income, and the chance for a full and rewarding life.[2]

[1]Yarborough. The Organizational Question. Op. Cit., pp. 741.

[2]Yarborough. Indian Education: A National Tragedy--A National Challenge. Op. Cit., p. X.